

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 9, 2021

3:32 p.m.

MEMBERS PRESENT

Senator Mike Shower, Chair
Senator Lora Reinbold, Vice Chair
Senator Roger Holland
Senator Scott Kawasaki

MEMBERS ABSENT

Senator Mia Costello

COMMITTEE CALENDAR

SENATE BILL NO. 71

"An Act relating to special request registration plates celebrating the arts; relating to artwork in public buildings and facilities; relating to the management of artwork under the art in public places fund; relating to the powers and duties of the Alaska State Council on the Arts; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 23

"An Act relating to proposing and enacting laws by initiative."

- HEARD & HELD

SENATE BILL NO. 76

"An Act relating to vehicles abandoned on private property."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 71

SHORT TITLE: COUNCIL ON ARTS: PLATES & MANAGE ART

SPONSOR(S): SENATOR(S) STEVENS

02/05/21 (S) READ THE FIRST TIME - REFERRALS

02/05/21 (S) STA, FIN
03/09/21 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 23

SHORT TITLE: INITIATIVE SEVERABILITY

SPONSOR(s): SENATOR(s) REVAK

01/22/21 (S) PREFILE RELEASED 1/8/21
01/22/21 (S) READ THE FIRST TIME - REFERRALS
01/22/21 (S) STA, JUD
03/09/21 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 76

SHORT TITLE: ABANDONED VEHICLES; PRIVATE PROPERTY

SPONSOR(s): SENATOR(s) KIEHL

02/10/21 (S) READ THE FIRST TIME - REFERRALS
02/10/21 (S) STA, L&C
03/09/21 (S) STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

SENATOR GARY STEVENS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 71.

TIM LAMKIN, Staff
Senator Gary Stevens
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 71 on behalf of the sponsor.

BENJAMIN BROWN, Chair
Alaska State Council on the Arts
Juneau, Alaska

POSITION STATEMENT: Provided supporting testimony for SB 71.

SENATOR JOSH REVAK
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 23.

DIRK CRAFT, Staff
Senator Josh Revak
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for SB 23.

SENATOR JESSE KIEHL
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 76.

CATHY SCHLINGHEYDE, Staff
Senator Jesse Kiehl
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information related to SB 76 on behalf of the sponsor

LAUREN MACVAY, President/CEO
True North Federal Credit Union
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 76.

ACTION NARRATIVE

[3:32:08 PM](#)

CHAIR MIKE SHOWER called the Senate State Affairs Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators Holland, Kawasaki, and Chair Shower. Senator Reinbold arrived soon thereafter.

SB 71-COUNCIL ON ARTS: PLATES & MANAGE ART

[3:33:06 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 71 "An Act relating to special request registration plates celebrating the arts; relating to artwork in public buildings and facilities; relating to the management of artwork under the art in public places fund; relating to the powers and duties of the Alaska State Council on the Arts; and providing for an effective date."

He noted who was available to answer questions.

[3:33:41 PM](#)

SENATOR GARY STEVENS, Alaska State Legislature, Juneau, Alaska, sponsor of SB 71, stated the Alaska State Council on the Arts ("Arts Council") requested this legislation because of complications with their 2019 budget due to COVID-19. He explained that the bill amends the existing license plate

program and provides the Arts Council with additional revenue from supporters of the program. He deferred further introduction to Mr. Lamkin.

3:34:38 PM

TIM LAMKIN, Staff, Senator Gary Stevens, Alaska State Legislature, Juneau, Alaska, stated that SB 71 allows the DMV to collect an additional fee for the artistic license plate and use the money for the Arts Council's budget. The intention is to reduce the agency's dependency on the general fund. The bill acknowledges that the attorney general is typically legal counsel for the Arts Council but it also provides a means to engage outside counsel as needed, consistent with other agencies. Importantly, the bill holds the Arts Council's private fundraising activities harmless from vetoes of the Executive Budget Act.

MR. LAMKIN stated that SB 71 also removes the mandate for the Arts Council to hold the artistic license plate design competition every four years and makes it discretionary. The Arts Council is also able to compensate the winning artist modestly for his/her artwork. Furthermore, the bill adds clarity to the Arts Council's authority to not only manage the art it has commissioned and paid for, but also to decommission or retire that art when the time comes.

MR. LAMKIN noted the chair of the Arts Council was available as invited testimony and to answer questions.

CHAIR SHOWER recognized Benjamin Brown.

3:37:18 PM

BENJAMIN BROWN, Chair, Alaska State Council on the Arts, Juneau, Alaska, began his testimony on SB 71 recounting his long service volunteering with the Arts Council, starting with his appointment by then Governor Frank Murkowski to be vice chair.

MR. BROWN characterized SB 71 as simple but important because it allows the Arts Council to carry more of its own weight by monetizing the Alaska Artistic License Plate Program. He related that the Arts Council felt that, particularly in response to the state's ongoing fiscal crisis, it made sense to get a modest amount of money from the extremely popular artistic license plates that currently have no surcharge. This reduces the agency's dependence on undesignated general funds.

3:39:15 PM

MR. BROWN reminded the committee of the federal requirement under the National Arts and Humanities Act. Every state with a state arts agency must provide a state match to qualify to receive money from the National Endowment for the Arts. In the current budget, slightly less than \$700,000 from the State of Alaska through the legislature will trigger a little more than that from the National Endowment for the Arts. Arts Council partners then more than match those funds. He said he is not aware of any other agency in state government that offers such a valued proposition. The Arts Council is very proud of that and wants to continue on that trajectory, he said. SB 71 will help in that effort.

[3:40:15 PM](#)

MR. BROWN explained that the issue of legal counsel arose with the governor's veto of the Arts Council budget in 2019. He said the legal advice the agency was getting from the assistant attorney general was not harmonious with its needs. He related that the administration is amenable to the exemption from the Executive Branch Budget Act for the Arts Council foundation partner money because those are neither state nor federal funds. He recalled that it was Mr. Lamkin's idea to make the license plate competition non-mandatory. He noted that it would have been impossible to meet that mandate if the competition had cycled when the veto occurred. He noted that Mr. Lamkin also suggested the provision to require the Arts Council to assume the duty of managing and adopting policies and procedures for the relocation, disposition, and exchange of works of art from the art in public places fund. He said this is a necessary change because nothing lasts forever. It is better to be proactive in the management and disposal of the public assets in a manner that respects the artist and the public investment, he said.

CHAIR SHOWER found no questions and asked Mr. Lamkin to walk through the sectional analysis.

[3:43:30 PM](#)

MR. LAMKIN presented the sectional analysis for SB 71.

Sec. 1: AS 28.10.421(a), relating to fees paid to the Division of Motor Vehicles (DMV) for vehicle license plates, allows for an additional fee, set by Alaska State Council on the Arts (ASCA) regulation, and not to exceed \$50, when a person chooses a new or replacement ASCA artistic plate.

The subsection also provides that these additional fees will be accounted for separately and that the total amount that exceeds the costs of the Artistic License Plate Program may be appropriated to fund the ASCA.

3:44:30 PM

Sec. 2: AS 35.27.020(h), relating to the Art Works in Public Buildings and Facilities program, adds a new subsection to specify ASCA's management responsibility for public artwork created under the program, to include the management of the relocation, disposition, or exchange of such artwork.

Sec. 3: AS 44.27.050(7), relating to the duties of the ASCA, is a cross reference to the prior section, specifying ASCA's management responsibility for public artwork created through its programs, to include the management of the relocation, disposition, or exchange of such artwork.

Sec. 4: AS 44.27.053(a), establishes the Attorney General being legal counsel for ASCA, similar to other state agencies, and allows the ASCA to retain additional legal counsel as needed, subject to the approval of the Attorney General.

Sec. 5: AS 44.27.055(d), relating to the ASCA managing its affairs, exempts from the purview of the Executive Budget Act those funds received by ASCA from private non-profit foundation partners.

Sec. 6: AS 44.27.080(a), relating to an ASCA-sponsored competition for artistic plates design, from being mandatory to being optional, every four years, at the discretion of ASCA.

3:46:04

Sec. 7: AS 44.27.080(c), relating to the artistic plate design competition, restores authority for the ASCA to award the artist of the winning design a monetary amount set in regulation, from the funds generated by the

artistic plates. This provision was repealed in 2018.

Sec. 8: Provides an effective date of July 1, 2021.

[3:46:24 PM](#)

CHAIR SHOWER asked if the sponsor anticipated less interest in the ceremonial arts license plate because it would no longer be free of charge.

MR. LAMKIN replied the expectation is a slight drop in demand, but the modest \$5 fee seeks to minimize the reduction. He noted that the fiscal note acknowledges that the drop in demand is just a guess.

CHAIR SHOWER asked if any associated program costs associated with this change could affect the undesignated general fund (UGF) budget.

MR. LAMKIN directed attention to the Arts Council fiscal note that reflects a one-time \$6,000 increment for legal fees to change the regulations.

[3:49:08 PM](#)

SENATOR REINBOLD referred to the provision in the new paragraph (7) on page 3, line 4, and asked if the art in public places fund is the same as the one percent for art.

MR. LAMKIN deferred to Mr. Brown.

[3:49:59 PM](#)

MR. BROWN replied those are two separate programs. The percent for art is in Title 35, Chapter 27. It calls for a piece of art to be put in a new facility. The art in public places fund holds the proceeds from the one percent allocated for a construction project that are not spent on a project. When the balance in the account reaches say \$50,000, the Arts Council will issue a call for pieces to accession to their contemporary art bank. He noted that many legislators have pieces from the contemporary art bank in their offices. These pieces also hang in university buildings, courthouses and other public facilities where Alaskans go for services. The Arts Council has clear authority in its enabling statute to manage and deaccession pieces in the contemporary art bank but it has no clear authority to help with art that is part of buildings. He advised that this part of SB 71 is meant to clarify that because it makes sense for the Arts Council to treat all its art equally.

[3:51:50 PM](#)

SENATOR REINBOLD asked if the bill authorizes the Arts Council to work on the art in the schools in her district that were heavily damaged by the earthquake and potentially will be upgraded.

MR. BROWN replied the bill gives the Arts Council the statutory authority to develop policies and procedures and they would like those to include the ability to rehabilitate the art in those sorts of public places. He described that as a good example of the need for this authority for the Arts Council.

SENATOR REINBOLD voiced support for the bill, advocated for the artists in her district, and asked what year the one percent for art program passed.

MR. LAMKIN recalled it was in the '70s.

MR. BROWN agreed with the guestimate.

[3:55:07 PM](#)

CHAIR SHOWER held SB 71 in committee for future consideration.

SB 23-INITIATIVE SEVERABILITY

[3:55:35 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 23 "An Act relating to proposing and enacting laws by initiative."

He noted the drafter was available to answer questions.

[3:55:54 PM](#)

SENATOR JOSH REVAK, Alaska State Legislature, Juneau, Alaska, sponsor of SB 23, introduced the legislation paraphrasing the following sponsor statement:

SB 23 seeks to ensure ballot initiative language that appears before voters at the ballot box is the same as the language circulated during the signature-gathering phase and to restore the legislature's important role in the initiative process.

[3:56:26 PM](#)

Alaska's constitution details a very important right of our residents - the right to enact legislation through the voter initiative process. The legislature

also has the right to enact legislation substantially the same as the proposed initiative thus removing it from the ballot.

The proposed ballot initiative language must be submitted to the State of Alaska for review. The Alaska Department of Law reviews the proposed language then provides the Lieutenant Governor a recommendation whether to certify or deny the language.

The Lieutenant Governor's certification is a key step in the initiative process. Only once certification happens will the state print petition booklets for gathering voter signatures. The petitioner then circulates the booklets to gather signatures and submits those to the state for verification. Once signatures are verified, an initiative can be prepared for the ballot.

Per our constitution, some issues are off-limits for ballot initiatives and initiatives can only cover one subject. But while a cursory legal review of language occurs before the Lieutenant Governor's certification, it has sometimes been the case that further review finds constitutional concerns with proposed language. In those cases, a party can file a lawsuit to force the issue through the court system. This can happen simultaneous to the circulation of signature booklets.

3:57:22 PM

Under current law, if a court determines that language in a proposed initiative is unconstitutional and/or severed, an amended version of the language can appear before voters. This results in voters seeing a different initiative than the one they supported with their signature. Furthermore, if the courts revise/sever the language after the legislative review process, they deny the legislature its right to review the initiative as revised. The net effect of a court's severance is that an initiative can move forward to the voters that is substantially different than the initial version reviewed by the legislature.

SB 23 would rectify this situation. Under this bill, if a court determines that language in a proposed initiative is unconstitutional or severed, the Lieutenant Governor must reject the entire initiative

petition and prohibit it from appearing on the ballot. Voters should be assured that language on the ballot has not changed from the language in the petition booklets supported with voter signatures and further, restores the legislature's right to review and enact substantially similar legislation to stop an initiative from moving forward.

[3:58:53 PM](#)

SENATOR REINBOLD asked if he would describe the bill as an improvement in transparency and an increase in integrity of the initiative process.

SENATOR REVAK replied that is the intent of the legislation.

CHAIR SHOWER expressed appreciation that the bill includes the concept of legislative supremacy.

[4:00:59 PM](#)

DIRK CRAFT, Staff, Senator Josh Revak, Alaska State Legislature, Juneau, Alaska, advised that SB 23 has just one section that amends AS 15.45.240. [The new subsection (b)] states that an initiative is not severable after it is circulated under AS 15.45.110, which is the statute that governs the circulation of petitions. It further provides that an initiative petition may not contain a severability clause. If a court finds a provision of an initiative unconstitutional during a review, the lieutenant governor must reject the entire petition and prohibit the placement of the initiative on the ballot.

[4:01:50 PM](#)

CHAIR SHOWER held SB 23 in committee for future consideration.

SB 76-ABANDONED VEHICLES; PRIVATE PROPERTY

[4:02:17 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 76, "An Act relating to vehicles abandoned on private property."

He listed the individuals available to answer questions.

[4:02:42 PM](#)

SENATOR JESSE KIEHL, Alaska State Legislature, Juneau, Alaska, sponsor, introduced SB 76 paraphrasing the following sponsor statement:

Vehicles abandoned on private property are an expensive nuisance. It happens all around the state. Under current law, a person can abandon a vehicle on someone else's property for up to six months without losing title to the vehicle. That means the private property owner must either live with the abandoned vehicle on their lot or cover the cost to store the vehicle elsewhere for the full six month period.

SB 76 reduces the time until the landowner can start the process to take title to the abandoned vehicle and deal with it. The bill reduces that wait from six months down to 30 days. The process to take title, which includes plenty of notice to the absent owner, remains unchanged.

[4:05:37 PM](#)

SENATOR REINBOLD thanked him for addressing this problem.

CHAIR SHOWER asked what happened to the similar bill he introduced during the last legislature.

SENATOR KIEHL replied the Senate passed the bill but the House did not take it up before the legislature's speedy departure from the Capitol [due to COVID-19].

CHAIR SHOWER asked if his staff would present the sectional analysis.

SENATOR KIEHL replied it is a two-section bill and he didn't imagine a sectional analysis was necessary but his staff was available to answer questions.

[4:06:53 PM](#)

SENATOR HOLLAND asked if the property owner is required to title an abandoned vehicle in their name before they can dispose of that vehicle.

SENATOR KIEHL answered yes and an analogy in the law is a towing lien. A tow truck owner who removes a vehicle under the towing laws of the state has the opportunity to recover their costs and the value of storage through a towing lien. He noted that that lien is easier to get than the law SB 76 proposes to change.

CATHY SCHLINGHEYDE, Staff, Senator Jesse Kiehl, Alaska State Legislature, Juneau, Alaska, advised that Ms. MacVay would like to testify.

CHAIR SHOWER turned to invited testimony.

4:08:40 PM

LAUREN MACVAY, True North Federal Credit Union, Juneau, Alaska, stated agreement with the sponsor that private property owners have a very long wait to dispose of vehicles abandoned on their property. She related her experience that one abandoned vehicle tends to attract other abandoned vehicles, which can be a problem over time. She said that from a lienholders perspective she would like to know sooner than six months that the collateral securing a loan from the Credit Union has been abandoned. "We need time to go through our lienholder process, but six months is way too long," she said.

CHAIR SHOWER asked if the 30-day notice includes the time to mail the notice to the owner of the abandoned vehicle.

MS. SCHLINGHEYDE answered that after the initial 30-day wait, a certified letter could be sent to the owner of the abandoned vehicle. Once the property owner receives the receipt, the 30-day notice period starts.

4:11:23 PM

CHAIR SHOWER held SB 76 in committee for future consideration.

4:12:03 PM

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 4:12 p.m.